

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Robert Fischer, Stephanie Lukis, Robert)	
Harper, and Tiffany Adams, individually)	
and on behalf of all others similarly)	Case No. 1:19-cv-04892
situated,)	
)	Hon. Judge Gary Feinerman
Plaintiffs,)	
)	Magistrate Judge M. David Weisman
v.)	
)	
Instant Checkmate LLC,)	
)	
Defendants.)	

**DEFENDANT INSTANT CHECKMATE LLC’S MOTION TO COMPEL PLAINTIFF
ROBERT FISCHER TO PRODUCE PREVIOUSLY AGREED UPON DOCUMENTS**

Pursuant to Federal Rule of Civil Procedure 37 and Northern District of Illinois Local Rule 37.2, Defendant Instant Checkmate LLC (“Instant Checkmate”) files this motion to compel against plaintiff Robert Fischer. As set forth in greater detail in Instant Checkmate’s memorandum in support of this motion, plaintiffs’ counsel previously agreed to produce “all data accessible” from plaintiff Stephanie Lukis and Fischer’s social media accounts, including all materials Lukis and Fischer are “able to download, including, but not limited to posts, browsing history, user history, consents, and messages.” Plaintiffs’ counsel produced this information for Lukis, but then reneged on their promise to do so for Fischer. In particular, Fischer has failed to produce the following materials that he previously agreed to produce: (1) “Off-Facebook Activity” from his Facebook account showing interactions with Instant Checkmate’s website; (2) documents from his Facebook account showing third parties with whom he has shared his contact information; and (3) data from his Twitter account. This information is relevant to, among other things, whether Fischer agreed to Instant Checkmate’s Terms of Use, whether the information displayed in Instant Checkmate’s

search results and background reports is publicly available and the extent to which Fischer consented to the sharing of his contact information with third parties. Instant Checkmate's counsel has conferred with plaintiffs' counsel in good faith for weeks on this issue, giving plaintiffs' counsel numerous chances to produce the information they previously agreed to produce without judicial intervention, but they have refused to do so.

WHEREFORE, as set forth more fully in Instant Checkmate's memorandum in support of this motion, the Court should grant Instant Checkmate's motion and compel Fischer to produce (1) "Off-Facebook Activity" from his Facebook account showing interactions with Instant Checkmate's website; (2) documents from his Facebook account showing third parties with whom he has shared his contact information; and (3) data from his Twitter account. The Court should also award Instant Checkmate its expenses, including attorney's fees, in bringing this motion.

Dated: February 25, 2021

Respectfully submitted,

INSTANT CHECKMATE LLC

By: /s/ Debbie L. Berman

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CERTIFICATE OF SERVICE

I, Debbie L. Berman, certify that on February 25, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a Notice of Electronic Filing to all counsel of record.

/s/ Debbie L. Berman
Debbie L. Berman